## MASSACHUSETTS FAIR HEALTH CARE PRICING ACT

*Be It Enacted By the People and By Their Authority:* 

SECTION 1. Chapter 176O of the General Laws of Massachusetts shall be amended by inserting after section 27 thereof the following new section:

Section 28 Fair Health Care Pricing

As used in this section, the following words shall have the following meanings:

"Disproportionate share hospital": For purposes of this section, any acute hospital that exhibits a payer mix where a minimum of sixty-three per cent of the acute hospital's gross patient service revenue is attributable to Title XVIII and Title XIX of the federal Social Security Act, other government payers, and free care, as certified annually by the Center for Health Information and Analysis.

"Health Care Provider": For purposes of this section, an acute care hospital licensed under the provisions of section 51 of chapter 111 and its contracting agents.

"Geographically isolated hospital": For purposes of this section, a "Health Care Provider" that is the sole acute care hospital within a 20-mile radius.

- "Specialty hospital": For purposes of this section, a "Health Care Provider" that is defined by the Center for Health Information and Analysis as a specialty hospital, including but not limited to an acute care hospital that limits its admissions to children, to patients under obstetrical care, or to patients under oncology care.
- (a) Every health care provider that provides covered benefits to a person must provide such covered benefits to any such person as a condition of their licensure, must accept payment by a carrier consistent with the provisions of this section, and may not balance bill the recipient of services for any amount in excess of the amount paid by the carrier pursuant to this section, other than applicable co-payments, co-insurance and deductibles. Any health care provider that participates in a carrier's network or any health benefit plan shall not refuse to participate in the carrier's network due to the carrier's compliance with this section. Nothing in this section shall be construed to harm or diminish the quality of medical care provided by a health care provider organization.
- (b) No carrier or health care provider shall enter into or renew a contract or agreement on or after the effective date of this act under which the carrier agrees to pay the health care provider at a rate that is not in conformity with the standards in subsections (d) and (e); provided, that the provisions of this subsection shall also apply to a health care provider that has been approved, certified or waived as a risk bearing provider organization pursuant to Chapter 176T of the General Laws.
- (c) Carriers shall calculate the carrier-specific relative prices that the carrier has agreed to pay each health care provider determined using the provider categories and uniform methodology for price relativities established by the center for health information and analysis pursuant to section 10 of Chapter 12C and identified on a state-wide basis and by provider type. Carriers shall report their relative price calculations to the division of insurance annually. The division of insurance shall review and publish carriers' calculated relative prices within 90 days of receipt.
- (d) No carrier or health care provider shall enter into or renew a contract or agreement on or after the effective date of this act under which the health care provider is reimbursed for a provided service at a

relative price that is more than 20% above the carrier-specific average relative price for that service. However, this subsection shall not apply to contracts or agreements executed by specialty hospitals, geographically isolated hospitals, or disproportionate share hospitals.

- (e) No carrier or health care provider shall enter into or renew a contract or other agreement on or after the effective date of this act under which the health care provider is reimbursed for a provided service at a relative price that is more than 10% below the average carrier-specific relative price for that service.
- (f) For contracts entered into or renewed prior to the effective date of this act, but on or after July 1, 2016, the provisions of this act shall take effect upon the anniversary date of the contract.
- (g) Any net savings beyond savings required to comply with subsection (d) of this section that are realized by the carrier attributable to the operation of this section shall be reflected in reduced premiums, co-pays and deductibles that are charged to the carrier's subscribers. The division of insurance shall promulgate regulations to ensure that carriers are fully reflecting such savings in the premiums, co-pays, and deductibles charged to subscribers.
- (h) Every health care provider that does not agree to participate in a carrier's network must accept a rate equal to the carrier-specific average relative price for any covered out-of-network charges.
- (i) The division of insurance shall ensure that all provider rates developed as directed by this section are applicable to all products offered by each respective carrier, including but not limited to products covered by Chapters 175, 176G, 176I, 176K, and 176T of the General Laws. In performing its review, the division shall require that carriers entering into or renewing contracts with providers shall include in those contracts a provision allowing carriers to make available for the division to review each negotiated price for every service. The division shall publish consumer-friendly price information by provider, by service; provided, that the division shall also publicly report quality scores for every health care provider under contract with each such carrier for the provision of health care services; provided further, that such information shall be published on a web site in a conspicuous location and in a format that is easy to access and utilize by consumers. The information shall initially be published no later than six months after the effective date of this act and shall be updated at least annually thereafter.
- (j) Nothing in this section shall prohibit a carrier from denying payment for unapproved services conducted by a non-network provider. Every out-of-network health care provider must accept payment by a carrier consistent with the provisions of this section and may not balance bill such person for any amount in excess of the amount paid by the carrier pursuant to this section for such covered out-of-network services, other than applicable co-payments, co-insurance and deductibles.
- (k) The division of insurance, in consultation with the center for health information and analysis and the attorney general, shall promulgate rules and regulations as necessary to implement this section.
- SECTION 2. Chapter 93A of the General Laws is hereby amended by adding the following section:
- Section 12. A health care provider, as defined in section 28 of chapter 176O, shall not recoup or attempt to recoup amounts in excess of the amounts charged to carriers pursuant to section 28 of chapter 176O by increasing charges to other health benefit plans or other payers. The attorney general may adopt regulations enforcing this section, which shall include penalties for non-compliance.
- SECTION 3. Chapter 175 of the General Laws is hereby amended by after section 108M inserting the following new section:

Section 108N. Health Care Provider Exemption from Fair Health Care Pricing

- (a) Upon application by a health care provider, the division of insurance shall once annually determine whether such health care provider may receive an exemption from the provisions of Section 28 of Chapter 176O. The commissioner shall weigh the circumstances presented in an application against any potential for such exemption to increase health care costs. The division shall consider whether application of Section 28 of Chapter 176O would risk the financial solvency of the health care provider or otherwise unduly impact patient access to the applying health care provider's services.
- (b) The attorney general may review and analyze any information submitted pursuant to subsection (a) and may require any provider seeking an exemption to produce documents and testimony under oath related to the circumstances warranting an exemption to Section 28 of Chapter 176O. Any contracts provided to support such review shall not be a public record.
- (c) The division of insurance, in consultation with the center for health information and analysis and the attorney general, shall promulgate regulations to enforce the provisions of this section.

SECTION 4. The division of insurance, in consultation with the center for health information and analysis and the health policy commission, shall annually conduct a study of the impact of section 28 of chapter 176O. As part of this study, the division may conduct one or more public hearings and receive input from interested parties. The division shall file a report annually with the clerks of the senate and the house of representatives on its findings and may make recommendations for legislation.

SECTION 5. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

SECTION 6. This act shall take effect on January 15, 2017.

	Full Name	Address
1	Jerald N. Fishbein	44 Wilbur Ave, Dartmouth, MA 02747
2	James J. Farren	110 Riverway #2, Boston, MA 02215
3	Deona M. Brennan	27 Shipwreck Drive, Mashpee, MA 02649
4	Rodney Tariq Mohammed	29 Martin St. Brockton
5	Judithann Corey	60 New London Ave, Barnstable
6	Anestine E Bentick	300 Park Street, Boston MA 02124
7	Nadia Vilmont	306 Washington Street #1, Boston, MA 02121
8	Tammy Hall	346 Dickinson St., Springfield
9	Emilene A. Montoya	12 Duke Street, Lynn
10	Marcia Lyford	410 Forest Street, Raynham
11	Elisabeth Louise Daley	48 Lafayette Park, Apt. 3, Lynn
12	Sheilah J. Belin	131 Devon Street #2, Boston, MA 02121
13	Narkeya Shamonik Washington	266 Neponset Ave, #21 Boston, MA 02122
14	Dorcas E Rivera	306 Branywyne Dr., Boston, MA 02128
15	Marlishia G. Aho	24 Rowell Street #3, Boston, MA 02125
16	Darrin Dwayne Howell	7 Havelock Street, #1 Boston, MA 02124
17	Jeanie Oliver	38 Woodville St, #4 Boston 02119
18	Tara M. Galvin	25 Oyster Way, Mashpee 02649
19	Rebecca A. Gutman	49 Firth Road #2, Boston 02131
20	Rosario Cabrera	18 Bannister St., New Bedford
21	Meraide Antenor	159 Pearl Street, Malden, MA 02148

22	Lisa Matthews	342 Hathaway Boulevard #30, New Bedford
23	James R Willmuth	75 Ferry Hill Rd, Marshfield 02050
24	Herby Jean-Baptiste	321 Proctor Ave. Revere, MA 02151
25	Towanda McCoy	14304 Chestnut West, Randolph
26	Frank J. Borges	33 Grantley Street #C, Boston, MA 02136
27	Kamillah Nicole Hamilton	46 Wyman Street #1, Boston, MA 02130
28	Teia J. Searcy	8 Elizabeth Street #2, Boston, MA 02126
29	Tasia McCoy	14304 Chestnut West, Randolph